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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/061,654

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James A. Francois

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1816

27868

7590

06/28/2004

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EXAMINER

NGO, LIEN M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/061,654

Applicant(s)

FRANCOIS ET AL.

Examiner

LIEN TM NGO

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8,10-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8,10-17 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/19/04 has been entered.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the symbolic cross section of plastic of the closure and the fitment (claim 15) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The

replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show the symbolic cross section of plastic of the closure and the fitment as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 8, 10-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pfefferkorn et al. (6,679,395) in view of Thompson (5,275,287).

In regard to 8, 10-14, 17 and 19, Pfefferkorn et al. disclose, in fig. 2, a container comprising a fitment neck, a closure having an inner sealing ring 4, a rib or abutment 12, the spacing between an upper portion of the rib and upper portion of the an outer surface of the sealing ring being less than the thickness of the fitment neck, and the rib being embeddable (or enclosed closely) into the fitment neck and preventable the closure from inadvertently unthreading from the fitment. (See the definition of term "embed" as "enclose closely" in the attachment.

Pfefferkorn et al. do not disclose the rib being discontinuous or comprising a plurality of spaced ribs.

Thompson teaches a container closure having a plurality of spaced ribs 43 extending along an inner surface of the closure sidewall adjacent the closure top wall.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rib in the Pfefferkorn being discontinuous with a plurality of spaced ribs, as taught by Thomson, in order to facilitate of sealing as one desired.

In regard to claims 15 and 16, Pfefferkorn et al. in view of Thompson does not disclose the closure being made of a harder plastic than a plastic of the fitment.

Official notice is taken that a container is made of a soft plastic and a closure made of a harder plastic is well known in the art. Therefore, it would have been obvious to made the container of Pferffekorn et al. in view of Thompson with the closure is made of a harder plastic than the fitment in order to facilitate of closing of the plastic container.

6. Claims 8, 10-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kano et al. (6,695,161) in view of Thompson (5,275,287).

In regard to 8, 10-14,17 and 19,

Kano et al. disclose, in fig. 2, a container comprising a fitment neck, a closure having a inner sealing ring 38, a rib or abutment 34, the spacing between an upper portion of the rib and upper portion of the an outer surface of the sealing ring being less than the thickness of the fitment neck, and the rib being embeddable (or enclosed closely) into the fitment neck and preventable the closure from inadvertently unthreading from the fitment. (See the definition of term "embed" as "enclose closely" in the attachment.

Kano et al. do not disclose the rib being discontinuous or comprising a plurality of spaced ribs.

Thompson teaches a container closure having a plurality of spaced ribs 43 extending along an inner surface of the closure sidewall adjacent the closure top wall.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the rib in the Kano being discontinuous with a plurality of spaced ribs, as taught by Thomson, in order to facilitate of sealing as one desired.

In regard to claims 15 and 16, Kano et al. in view of Thompson does not disclose the closure being made of a harder plastic than a plastic of the fitment.

Official notice is taken that a container is made of a soft plastic and a closure made of a harder plastic is well known in the art. Therefore, it would have been obvious to make the container of Kano et al. in view of Thompson with the closure is made of a harder plastic than the fitment in order to facilitate of closing of the plastic container.

Response to Arguments

7. Applicant's arguments with respect to claims 8, 10-17 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 703-305-

0294. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LEE YOUNG can be reached on 703-308-2572. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lien Ngo

June 24, 2004

A handwritten signature in black ink, appearing to be 'Lien Ngo', with a stylized, wavy line extending from the end.